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FISCAL IMPACT STATEMENT

LS 7041

BILL NUMBER: HB 1342

NOTE PREPARED: Jan 23, 2014

BILL AMENDED:

SUBJECT: Environmental Fees and Expenses.

FIRST AUTHOR: Rep. Wolkins

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Collection of Fees:* This bill provides that the Hazardous Waste Disposal Fee (which replaces the Hazardous Waste Disposal Tax), the fee on the disposal or incineration of solid waste, and the annual registration fee paid by owners of underground storage tanks shall be collected by the Department of Environmental Management (IDEM) instead of the Department of State Revenue.

Underground Storage Tank Fees: The bill provides that if an underground storage tank consists of a single tank in which there are separate compartments, a separate annual registration fee shall be paid for each compartment within the single tank.

Modifications of Restrictive Covenants: The bill allows the Commissioner of IDEM, under certain circumstances, to authorize the modification of a restrictive covenant that the owner of a property contaminated with a hazardous substance has been required to execute and record. It provides for the administrative and personnel expenses incurred by the state in evaluating a proposed modification of a restrictive covenant to be paid from the Hazardous Substances Response Trust Fund, and requires the Environmental Rules Board to adopt rules providing for the recovery of those expenses by the state.

The bill removes references to the Solid Waste Management Board, which was abolished on January 1, 2013.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Collection of Fees:* This bill requires IDEM to collect the annual registration fee for underground storage tanks, the Hazardous Waste Disposal Fee and the Solid Waste Disposal Fee. These fees are currently collected by the Department of State Revenue.

Modifications of Restrictive Covenants: This bill would allow for administrative and personnel expenses to be paid from the Hazardous Substances Response Trust Fund for the evaluation of proposed modifications of restrictive covenants. Currently, there is no dedicated funding for conducting this work. As of July, 2013, there were over 1,100 sites in Indiana with environmental restrictive covenants. As of December 30, 2013, the Hazardous Substances Response Trust Fund had a balance of about \$2 M.

This provision would also require the Environmental Rules Board to adopt rules providing for the recovery of these expenses. The adoption of rules is within IDEM's routine administrative functions and should be able to be accomplished within the current levels of resources available, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: Summary - This bill makes numerous changes to the administration of the Hazardous Waste Disposal Fee, the Solid Waste Disposal Fee, and the Underground Storage Tank Fee. The provisions of this bill could result in:

- (1) distribution of about \$257,000 annually to the Hazardous Substances Response Trust Fund instead of distributions totaling \$7,000 to the Excess Liability Trust Fund and about \$250,000 to counties that are currently receiving revenue from the Hazardous Waste Disposal Tax.
- (2) distribution of about \$600,000 annually to the Petroleum Trust Fund instead of distribution of that amount to the Excess Liability Trust Fund.

This bill also repeals two Class B misdemeanors concerning the administration of the Solid Waste Disposal Fee by the Department of State Revenue, which could reduce revenue to the Common School Fund (from fines) and the state General Fund (from court fees). The maximum fine for a Class B misdemeanor is \$1,000. However, any decrease in revenue would likely be small.

Additional Information -

Hazardous Waste Disposal Fee: The bill repeals the Hazardous Waste Disposal Tax and replaces it with the fee for hazardous waste disposal and provides that all of the revenue from the fee will be deposited in the Hazardous Substances Response Trust Fund instead of 75% per current statute. Current law provides that 25% of the revenue is distributed to counties with hazardous waste disposal facilities. Based on revenue collections for FY 2009 through FY 2013, this bill could result in an additional amount of about \$250,000 distributed to the Hazardous Substances Response Trust Fund effective in FY 2015.

The Hazardous Waste Disposal Tax is \$11.50 per ton of taxable hazardous waste that is disposed of in Indiana. The maximum liability of a taxpayer for the disposal of taxable hazardous wastes by underground injection during a calendar year is \$25,000. Facilities pay the tax quarterly and file returns with the Department of State Revenue. Seventy-five percent of the revenue is deposited in the Hazardous Substances Response Trust Fund. Counties in which a hazardous waste disposal facility is located receive 25% of the revenue generated by the tax. Money in the fund at the end of the fiscal year does not revert to the county general fund.

In FY 2013, the total revenue from the Hazardous Waste Disposal Tax equaled about \$1.2 M. The Hazardous Substances Response Trust Fund received \$891,672, and the remaining revenue was distributed as follows: Porter County, \$13,341; and Putnam County, \$283,883.

Underground Storage Tank Fees: This bill changes the distribution of Underground Storage Tank Fees by providing that fees paid for petroleum storage tanks are distributed to the Petroleum Trust Fund and fees paid for tanks with other regulated substances are distributed to the Hazardous Substances Response Trust Fund. These provisions would result in an additional amount of about \$600,000 distributed to the Petroleum Trust Fund and an additional amount of about \$7,000 distributed to the Hazardous Substances Response Trust Fund annually.

Currently, fees are deposited as follows for underground petroleum storage tanks: \$45 is deposited in the Excess Liability Trust Fund; and \$45 is deposited in the Petroleum Trust Fund. Fees for underground storage tanks used to contain regulated substances other than petroleum are deposited as follows: \$45 is deposited in the Hazardous Substances Response Trust Fund; and \$200 is deposited in the Excess Liability Trust Fund. About \$46.2 M was collected in tank fees for FY 2013.

Also, this bill clarifies that a fee for underground storage tanks must be paid for each compartment within a single tank. Fees have been charged for each compartment historically, so this provision should have no impact on fee revenue.

A recent court decision (*Pilot Travel Centers, LLC. v. The Indiana Department of Environmental Management*) found that only one fee could be charged for an underground storage tank with more than one compartment due to ambiguity in the law. If the current law would be interpreted in this manner for all underground tanks, it is estimated that the loss of revenue from underground storage tank fees could be about \$600,000 to \$800,000 annually.

The bill also provides that fees are to be paid if tanks are not closed before January 1 of the year. (Current law provides that fees are paid if the tank has not been closed before July 1 of the year). This provision is not expected to impact revenue.

Solid Waste Disposal Fees: Fees (\$0.50 per ton) are imposed on the disposal or incineration of solid waste in a final disposal facility. Revenue from the fees is deposited 50% in the State Solid Waste Management Fund and 50% in the Recycling Promotion and Assistance Fund. For FY 2013, about \$5.3 M was collected.

Collection of Fees: This bill provides that IDEM (instead of the Department of State Revenue) will collect the fees for underground storage tanks, hazardous waste disposal, and solid waste disposal or incineration. The rates for these fees remain the same as the current rates.

The bill also repeals the \$25 registration fee collected by DOR from owners or operators of final disposal facilities responsible for collecting solid waste disposal or incineration fees. No registration fees were collected for FY 2013.

Repealed Penalties: This bill repeals two Class B misdemeanors concerning the administration of the Solid Waste Disposal Fee by the Department of State Revenue. Current law provides that the Department of State Revenue may post a sign at a solid waste disposal facility where an owner is delinquent in paying fees, the facility is in jeopardy, or the facility is operating without proper registration. Signs may be posted at such facilities until the situations are remedied. Current law provides a Class B misdemeanor for removing, altering, defacing or covering the sign, and a Class B misdemeanor for failure to notify the Department of State Revenue if these actions have occurred. Both penalties are repealed by this bill (as well as the provisions concerning the posting of signs by the Department of State Revenue).

Explanation of Local Expenditures: *Repealed Penalties:* This bill repeals two Class B misdemeanors concerning the administration of the Solid Waste Disposal Fee by the Department of State Revenue, which would reduce local expenditures. A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Hazardous Waste Disposal Fee:* The bill provides that the revenue from the Hazardous Waste Disposal Fee (which replaces the Hazardous Waste Disposal Tax) is deposited in the Hazardous Substances Response Trust Fund. The current Hazardous Waste Disposal Tax revenue is distributed 75% to this fund and 25% to the county general fund where the facility is located. Based on revenue collections for FY 2009 through FY 2013, this bill could result in about \$250,000 not being distributed to these counties effective in FY 2015. For FY 2013, Porter and Putnam counties received distributions of \$13,341 and \$283,883 respectively.

Repealed Penalties: This bill also repeals two Class B misdemeanors concerning the administration of the Solid Waste Disposal Fee by the Department of State Revenue, which would reduce local revenues from court fees. However, any decrease in revenue would likely be small.

State Agencies Affected: Indiana Department of Environmental Management; Environmental Rules Board; Department of State Revenue.

Local Agencies Affected: Counties that currently receive revenue from the Hazardous Waste Disposal Tax; Trial courts, local law enforcement agencies.

Information Sources: Indiana Department of Environmental Management; Legislative Services Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations*, Fiscal Year 2013.

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